

## SENATE BILL No. 222

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2.3-6; IC 36-4-3; IC 36-9-24-14.

**Synopsis:** Annexation. Provides the following for annexations initiated on or after May 15, 2015: (1) Changes the annexation remonstrance process to make it similar to the remonstrance process found in property tax statutes. (2) Provides that if at least 60% of landowners in a proposed annexation territory sign a remonstrance petition, the annexation is defeated. (3) Requires that the fiscal plan must be approved by the department of local government finance for accuracy and viability. (4) Prohibits amendment of the fiscal plan after a remonstrance petition is filed unless the amendment is consented to by remonstrators.

**Effective:** Upon passage.

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January 6, 2015, read first time and referred to Committee on Local Government.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 222

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-2.3-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The boundaries  
3 of the assigned service areas of electricity suppliers may not be  
4 changed except under any one (1) of the following circumstances:  
5 (1) If a municipality which owns and operates an electric utility  
6 system furnishing retail electric service to the public annexes an  
7 area beyond the assigned service area of its municipally owned  
8 electric utility, the municipally owned electric utility may petition  
9 the commission to change the assigned service area of the  
10 municipally owned electric utility to include the annexed area,  
11 according to the following procedures:  
12 (A) The municipally owned electric utility shall file its petition  
13 with the commission not later than sixty (60) days after the  
14 annexation becomes effective. The petition must include a  
15 certified copy of the annexation ordinance, which serves as  
16 conclusive evidence that the area has been lawfully annexed



and is part of the municipality. After the filing of a petition under this subdivision, the commission shall promptly enter an order changing the assigned service area facet maps of the municipally owned electric utility and incumbent electricity suppliers to include the annexed area within the assigned service area of the municipally owned electric utility and giving the right to serve and immediate possession to the municipally owned electric utility. The commission order is enforceable in court pending an appeal of that order. An appellant from a court order enforcing a commission order under this subdivision is not entitled to a stay of the court order pending appeal. However, this subdivision does not apply to incorporations, consolidations, mergers, or annexations that are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h), or IC 36-4-3-4.1 or that are not contiguous under ~~IC 36-4-3-13(b)~~ **IC 36-4-3-13(c)** or ~~IC 36-4-3-13(c)~~ **IC 36-4-3-13(d)**.

(B) Not later than thirty (30) days after filing a petition under this subdivision, the municipally owned electric utility shall determine for each affected incumbent electricity supplier and pay to that supplier an amount not less than the value of all the electric utility property of the incumbent electricity supplier that is devoted to furnishing retail electric service within the additional assigned service area at its then reproduction cost new depreciated value. In addition, the municipally owned electric utility shall pay the incumbent electricity supplier severance damages in an amount equal to:

(i) the value of the incumbent electricity supplier's distribution and substation facilities dedicated to and located within the annexed area or relocated by reason of the annexation or an amount equal to two and one-half (2 1/2) times the incumbent electricity supplier's gross revenues from electricity sales in the annexed area during the twelve (12) month period immediately preceding the date the annexation ordinance became effective, whichever is greater; plus

(ii) if additional permanent service locations or service accounts are established in the annexed area during the five (5) year period beginning on the effective date of the annexation ordinance, one-tenth of one cent (\$0.001) for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales



1 that occur during a five (5) year period beginning on the  
2 date each service location or service account is established,  
3 up to a maximum of one hundred seventy thousand  
4 (170,000) kilowatt hours per service account or service  
5 location for each monthly billing period.

6 However, the municipally owned electric utility is not required  
7 to pay severance damages under item (ii) if, at the time each  
8 annual payment otherwise would accrue, it is purchasing all of  
9 its requirements for electric power and energy, except for  
10 generation directly provided by the municipally owned electric  
11 utility or by a customer, from the incumbent electricity  
12 supplier. Severance damages must be paid not later than thirty  
13 (30) days after the end of each calendar year in which  
14 severance damages have accrued. The municipally owned  
15 electric utility and incumbent electricity suppliers shall  
16 cooperate to calculate the amount of any severance damages  
17 and shall furnish to each other all information and records  
18 reasonably necessary for the determination and verification of  
19 severance damages. If the municipally owned electric utility  
20 and incumbent electricity suppliers cannot agree on the  
21 amount of severance damages the municipally owned electric  
22 utility is to pay, the commission shall determine the amount  
23 and order payment in accordance with this clause. Not later  
24 than twenty (20) days after making a payment, the municipally  
25 owned electric utility shall certify to the commission and to  
26 any affected incumbent electricity supplier that it has paid the  
27 amounts required under this clause.

28 (C) If the municipally owned electric utility fails to make a  
29 payment under clause (B), an affected incumbent electricity  
30 supplier may, not later than sixty (60) days after the payment  
31 is due and after giving the municipally owned electric utility  
32 reasonable notice of and an opportunity to cure the defect, file  
33 with the commission a petition alleging that a payment due  
34 under clause (B) has not been made. If the commission finds  
35 after notice and hearing that any payments owed to the  
36 incumbent electricity supplier have not been timely and fully  
37 paid, the commission shall order the municipally owned  
38 electric utility to pay:

- 39 (i) the delinquent payments by a date determined by the  
40 commission;  
41 (ii) accrued interest at the rate set forth in IC 24-4.6-1-102;  
42 and



(iii) the incumbent electricity supplier's costs of filing and prosecuting a petition under this clause.

If the commission finds against the incumbent electricity supplier, it shall order the incumbent electricity supplier to pay the costs incurred by the municipally owned electric utility in defending against the incumbent electricity supplier's petition.

(D) A certified copy of a final commission order that:

(i) determines and orders the payment of severance damages under clause (B); or

(ii) orders the payment of delinquent payments, interest, and costs under clause (C);

may be filed with the clerk of the circuit or superior court of any county in which part or all of the annexed area is located.

A commission order that is filed in a court under this clause may be enforced and executed in the same manner as if it were a final judgment of that court.

(2) Upon mutual agreement of the affected electricity suppliers and approval of the commission. If notice of a verified request for a change of boundary lines by mutual agreement under this subdivision is published in a newspaper of general circulation in every county in which the boundary lines are located and an affected electricity customer does not request a hearing within twenty (20) days of the last date of publication, the commission may approve the change without a hearing. The commission shall approve a boundary line change under this subdivision unless the commission finds, after a public hearing, that the change would cause:

(A) duplication of electric utility facilities;

(B) waste of materials or resources; or

(C) uneconomic, inefficient, or inadequate electric service to the public.

(3) In the case where a landowner owns a single tract of land that is intersected by the boundary lines of two (2) or more assigned service areas, and retail electric service can best be supplied by only one (1) electricity supplier, or in the case where a customer or customers are housed in a single structure or constitute a single governmental, industrial, or institutional operation, and the electricity suppliers involved are unable to agree which shall furnish the electric service, any of the electricity suppliers may submit the matter to the commission for its determination based upon public convenience and necessity. If, after notice and hearing, the commission determines that one (1) or more



electricity suppliers are to supply the required retail electric service and the boundaries of an assigned service area are to be changed, the assigned service area maps of the electricity suppliers shall be changed to reflect the new boundaries.

SECTION 2. IC 36-4-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. **(a) This section applies only to an annexation begun by an annexation ordinance introduced before May 15, 2015.**

~~(a)~~ **(b)** This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

~~(b)~~ **(c)** A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

~~(c)~~ **(d)** Except as provided in subsection ~~(d)~~, **(e)**, the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

~~(d)~~ **(e)** In an annexation under section 5 or 5.1 of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

SECTION 3. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

- (1) requesting an ordinance annexing the area described in the petition; and
- (2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) The municipality may:

- (1) adopt an annexation ordinance annexing the territory; and
- (2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.



(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan **under section 13 of this chapter or (after May 14, 2015) section 13.1 of this chapter** by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan **under section 13 of this chapter or (after May 14, 2015) section 13.1 of this chapter** is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

(i) A remonstrance under section 11 **or 11.1** of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.

(j) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

SECTION 4. IC 36-4-3-7, AS AMENDED BY P.L.113-2010, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the absence of remonstrance and appeal under section 11, **11.1**, or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under



section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11, **11.1**, or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 5. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1.





Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the ~~sixty (60) day~~ remonstrance and appeal period under section 11, **11.1**, or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

SECTION 6. IC 36-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section does not apply to an ordinance adopted under section 5 or 5.1 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory. The terms and conditions may include:

- (1) postponing the effective date of the annexation for not more than three (3) years; and
- (2) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.

(c) This subsection applies to territory sought to be annexed that meets all of the following requirements:

- (1) The resident population density of the territory is at least three (3) persons per acre.
- (2) The territory is subdivided or is parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are not more than one (1) acre.

This subsection does not apply to an ordinance annexing territory described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The ordinance must include terms and conditions impounding in a special fund all of the municipal property taxes imposed on the annexed territory after the annexation takes effect that are not used to meet the basic services described in section ~~13(d)(4)~~ **13(e)(4)** and ~~13(d)(5)~~ **13(e)(5)** of this chapter **(for an annexation begun by an annexation ordinance introduced before May 15, 2015) and in section 13.1(d)(3) of this chapter (for an annexation begun by an annexation ordinance introduced after May 14, 2015) for a period**



of at least three (3) years. The impounded property taxes must be used to provide additional services that were not specified in the plan of annexation. The impounded property taxes in the fund shall be expended as set forth in this section, not later than five (5) years after the annexation becomes effective.

SECTION 7. IC 36-4-3-11, AS AMENDED BY P.L.111-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a) This section applies only to an annexation begun by an annexation ordinance introduced before May 15, 2015.**

~~(a)~~ **(b)** Except as provided in section 5.1(i) of this chapter and subsections ~~(d)~~ **(e)** and ~~(e)~~ **(f)**, whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

~~(b)~~ **(c)** On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

~~(c)~~ **(d)** If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

~~(d)~~ **(e)** If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

~~(e)~~ **(f)** This subsection applies if:

- (1) the territory to be annexed consists of not more than one



1 hundred (100) parcels; and

2 (2) eighty percent (80%) of the boundary of the territory proposed  
3 to be annexed is contiguous to the municipality.

4 An annexation may be appealed by filing with the circuit or superior  
5 court of a county in which the annexed territory is located a written  
6 remonstrance signed by at least seventy-five percent (75%) of the  
7 owners of land in the annexed territory as determined under subsection  
8 ~~(b)~~: **(c)**.

9 SECTION 8. IC 36-4-3-11.1 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE  
11 UPON PASSAGE]: **Sec. 11.1. (a) This section applies only to an**  
12 **annexation begun by an annexation ordinance introduced after**  
13 **May 14, 2015.**

14 **(b) An annexation ordinance does not go into effect unless the**  
15 **annexing municipality completes the following procedures:**

16 **(1) The proper officers of the municipality must give notice of**  
17 **the applicability of the remonstrance process by:**

18 **(A) publishing the notice in accordance with IC 5-3-1; and**

19 **(B) first class mail to the circuit court clerk and to owners**  
20 **of real property described in section 2.2 of this chapter.**

21 **A notice under this subdivision must include a statement that**  
22 **any owners of real property within the area to be annexed**  
23 **who want to remonstrate against the proposed annexation**  
24 **must file remonstrances in compliance with subdivisions (2)**  
25 **through (4) not earlier than thirty (30) days or later than**  
26 **ninety (90) days after publication of the notice in accordance**  
27 **with IC 5-3-1.**

28 **(2) Not earlier than thirty (30) days or later than ninety (90)**  
29 **days after the notice under subdivision (1) is given,**  
30 **remonstrances may be filed by an owner of real property**  
31 **within the area to be annexed that is not exempt from**  
32 **property taxes under IC 6-1.1-10. Each signature on the**  
33 **remonstrance must be dated, and the date of the signature**  
34 **may not be earlier than the date on which the remonstrance**  
35 **forms may be issued under subdivision (3). A person who**  
36 **signs as an owner of real property must indicate the address**  
37 **of the real property owned by the person in the area to be**  
38 **annexed. A remonstrance petition must be verified in**  
39 **compliance with subdivision (4) before the remonstrance is**  
40 **effective. A signature on a remonstrance form is final and**  
41 **may not be rescinded.**

42 **(3) The state board of accounts shall design and, upon request**



by the county auditor's office, deliver to the county auditor's office or the county auditor's office's designated printer the remonstrance forms to be used solely in the remonstrance process described in this section. The county auditor's office shall issue to an owner or owners of real property within the area to be annexed the number of remonstrance forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property;

(B) the carrier must be a signatory of at least one (1) remonstrance petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the remonstrance period.

A person requesting remonstrance forms may be required to identify himself or herself as an owner of real property and may be allowed to obtain additional copies to distribute to other owners of real property. The county auditor's office may not issue a remonstrance form earlier than twenty-nine (29) days after notice is given under subdivision (1). The county auditor's office shall certify the date of issuance on each remonstrance form that is distributed under this subdivision.

(4) Remonstrance forms must be verified in the manner prescribed by the state board of accounts and filed with the county auditor's office within the period described in subdivision (2).

(5) Not later than fifteen (15) business days after receiving a remonstrance, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed who signed the remonstrance.

(6) A person may sign a remonstrance only one (1) time in a particular remonstrance process under this section, even if the person owns more than one (1) parcel of real property in the territory to be annexed.

(7) The county auditor shall file a certificate with the legislative body of the annexing municipality not later than five (5) business days after making the determination under subdivision (5). In making the determination under



subdivision (5), the county auditor shall use the auditor's current tax records as provided in section 2.2 of this chapter.

(c) If at least sixty percent (60%) of persons who own real property within the territory to be annexed sign a remonstrance, the annexation ordinance is void.

(d) If the annexation ordinance is considered void under subsection (c), the municipality may not make subsequent annexations under section 3 or 4 of this chapter in the same territory for a period of forty-eight (48) months after the date the county auditor files the certificate with the legislative body of the annexing municipality under subsection (b)(7).

(e) Withdrawal of an annexation ordinance voids the ordinance and has the same effect as a void ordinance under subsection (d).

SECTION 9. IC 36-4-3-11.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.2. (a) This section applies only to an annexation begun by an annexation ordinance introduced after May 14, 2015.

(b) This section applies to the determination of the validity of a signature on a document required for a remonstrance procedure under this chapter.

(c) If:

(1) the validity of a signature is uncertain; and

(2) this section does not establish a standard to be applied in the case;

a reasonable doubt must be resolved in favor of the validity of the signature.

(d) Whenever the name of an individual, as printed or signed, contains a minor variation from the name of the individual as set forth in the relevant county records, the signature is considered valid.

(e) Whenever the residence address or mailing address of an individual contains a minor variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered valid.

(f) Notwithstanding subsections (d) and (e), if the residence address or mailing address of an individual contains a substantial variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered invalid.

(g) If the signature of an individual does not substantially conform with the signature of the individual in relevant county



1 records, the signature is considered invalid. In determining  
 2 whether a signature substantially conforms with the signature in  
 3 the relevant county records, consideration shall be given to  
 4 whether the lack of conformity may reasonably be attributed to the  
 5 age, disability, or impairment of the individual.

6 SECTION 10. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,  
 7 SECTION 117, IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a) This section applies**  
 9 **only to an annexation begun by an annexation ordinance**  
 10 **introduced before May 15, 2015.**

11 ~~(a)~~ **(b)** The circuit or superior court shall:

12 (1) on the date fixed under section 11 of this chapter, hear and  
 13 determine the remonstrance without a jury; and

14 (2) without delay, enter judgment on the question of the  
 15 annexation according to the evidence that either party may  
 16 introduce.

17 ~~(b)~~ **(c)** If the court enters judgment in favor of the annexation, the  
 18 annexation may not take effect during the year preceding the year in  
 19 which a federal decennial census is conducted. An annexation that  
 20 would otherwise take effect during the year preceding a year in which  
 21 a federal decennial census is conducted takes effect January 1 of the  
 22 year in which a federal decennial census is conducted.

23 SECTION 11. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,  
 24 SECTION 188, IS AMENDED TO READ AS FOLLOWS  
 25 [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) This section applies**  
 26 **only to an annexation begun by an annexation ordinance**  
 27 **introduced before May 15, 2015.**

28 ~~(a)~~ **(b)** Except as provided in subsections ~~(c)~~ **(f)** and ~~(g)~~ **(h)**, at the  
 29 hearing under section 12 of this chapter, the court shall order a  
 30 proposed annexation to take place if the following requirements are  
 31 met:

32 (1) The requirements of either subsection ~~(b)~~ **or (c) or (d).**

33 (2) The requirements of subsection ~~(d)~~ **(e).**

34 ~~(b)~~ **(c)** The requirements of this subsection are met if the evidence  
 35 establishes the following:

36 (1) That the territory sought to be annexed is contiguous to the  
 37 municipality.

38 (2) One (1) of the following:

39 (A) The resident population density of the territory sought to  
 40 be annexed is at least three (3) persons per acre.

41 (B) Sixty percent (60%) of the territory is subdivided.

42 (C) The territory is zoned for commercial, business, or



1 industrial uses.

2 ~~(e)~~ (d) The requirements of this subsection are met if the evidence  
3 establishes the following:

4 (1) That the territory sought to be annexed is contiguous to the  
5 municipality as required by section 1.5 of this chapter, except that  
6 at least one-fourth (1/4), instead of one-eighth (1/8), of the  
7 aggregate external boundaries of the territory sought to be  
8 annexed must coincide with the boundaries of the municipality.

9 (2) That the territory sought to be annexed is needed and can be  
10 used by the municipality for its development in the reasonably  
11 near future.

12 ~~(d)~~ (e) The requirements of this subsection are met if the evidence  
13 establishes that the municipality has developed and adopted a written  
14 fiscal plan and has established a definite policy, by resolution of the  
15 legislative body as set forth in section 3.1 of this chapter. The fiscal  
16 plan must show the following:

17 (1) The cost estimates of planned services to be furnished to the  
18 territory to be annexed. The plan must present itemized estimated  
19 costs for each municipal department or agency.

20 (2) The method or methods of financing the planned services. The  
21 plan must explain how specific and detailed expenses will be  
22 funded and must indicate the taxes, grants, and other funding to  
23 be used.

24 (3) The plan for the organization and extension of services. The  
25 plan must detail the specific services that will be provided and the  
26 dates the services will begin.

27 (4) That planned services of a noncapital nature, including police  
28 protection, fire protection, street and road maintenance, and other  
29 noncapital services normally provided within the corporate  
30 boundaries, will be provided to the annexed territory within one  
31 (1) year after the effective date of annexation and that they will be  
32 provided in a manner equivalent in standard and scope to those  
33 noncapital services provided to areas within the corporate  
34 boundaries regardless of similar topography, patterns of land use,  
35 and population density.

36 (5) That services of a capital improvement nature, including street  
37 construction, street lighting, sewer facilities, water facilities, and  
38 stormwater drainage facilities, will be provided to the annexed  
39 territory within three (3) years after the effective date of the  
40 annexation in the same manner as those services are provided to  
41 areas within the corporate boundaries, regardless of similar  
42 topography, patterns of land use, and population density, and in



a manner consistent with federal, state, and local laws, procedures, and planning criteria.

~~(e)~~ **(f)** At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection ~~(f)~~ **(g)**.

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section ~~11(b)~~ **11(c)** of this chapter.

~~(f)~~ **(g)** The municipality under subsection ~~(e)(2)(C)~~ **(f)(2)(C)** bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.





The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

~~(g)~~ **(h)** This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

~~(h)~~ **(i)** The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection ~~(b)(2)(A)~~, **(c)(2)(A)**, but this evidence may be rebutted by other evidence of population density.

SECTION 12. IC 36-4-3-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.1. (a) This section applies only to an annexation begun by an annexation ordinance introduced after May 14, 2015.**



(b) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(c) A municipality may not annex territory without a plan to provide and finance municipal services and capital improvements to the annexed territory.

(d) The annexing municipality must prepare a fiscal plan of the proposed annexation. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that the services will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as the services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) A fiscal plan must contain sufficient detail to provide a reasonable person with full and complete understanding of the proposal for providing planned services and capital improvements.

(f) The municipality preparing a fiscal plan after May 14, 2015, shall submit the fiscal plan described in subsection (d) to the



department of local government finance. A municipality may not adopt an annexation ordinance until the department of local government finance has done the following:

(1) Reviewed and approved the fiscal plan for:

(A) accuracy and completeness of the information in the fiscal plan; and

(B) viability of the fiscal plan.

(2) Made any comments concerning the fiscal plan that the department considers appropriate.

(3) Provided the department's comments under subdivision (2) to the annexing municipality.

(4) Posted the department's comments under subdivision (2) on the department's Internet web site.

The department of local government finance may request additional information the department considers necessary to aid in its review. The department of local government finance shall approve or disapprove the municipality's fiscal plan not later than thirty (30) days after the fiscal plan is submitted to the department. If the municipality amends the fiscal plan and submits the amended fiscal plan to the department of local government finance, the department shall approve or disapprove the amended fiscal plan not later than thirty (30) days after the amended fiscal plan is submitted to the department. The department of local government finance shall certify to the legislative body of the annexing municipality the total amount of expense incurred by the department in carrying out the department's review and preparing the department's comments. Upon receipt of the department of local government finance's certification of the expenses, the annexing municipality shall immediately pay to the treasurer of state the amount charged. Money paid by an annexing municipality under this subsection shall be deposited in the state general fund.

(g) A municipality may not amend the fiscal plan after the date that a remonstrance is filed under section 11.1 of this chapter, unless amendment of the fiscal plan is consented to by the individuals signing the remonstrance petition. A municipality that amends the fiscal plan under this subsection may submit the amended fiscal plan to the department of local government finance for review and comment. The department of local government finance shall certify the expense incurred by the department in carrying out the review and preparing the comments as set forth in subsection (f).

SECTION 13. IC 36-4-3-14 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a) This**  
 2 **section applies only to an annexation begun by an annexation**  
 3 **ordinance introduced before May 15, 2015.**

4 **(b)** In a hearing under section 12 of this chapter, the laws providing  
 5 for change of venue from the county do not apply, but changes of venue  
 6 from the judge may be had as in other cases. Costs follow judgment.  
 7 Pending the remonstrance, and during the time within which the  
 8 remonstrance may be taken, the territory sought to be annexed is not  
 9 considered a part of the municipality.

10 SECTION 14. IC 36-4-3-15 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The court's  
 12 judgment under section 12 or 15.5 of this chapter must specify the  
 13 annexation ordinance on which the remonstrance is based. The clerk of  
 14 the court shall deliver a certified copy of the judgment to the clerk of  
 15 the municipality. The clerk of the municipality shall:

- 16 (1) record the judgment in the clerk's ordinance record; and
- 17 (2) make a cross-reference to the record of the judgment on the
- 18 margin of the record of the annexation ordinance.

19 **(b)** If a judgment under section 12 or 15.5 of this chapter is adverse  
 20 to annexation, the municipality may not make further attempts to annex  
 21 the territory or any part of the territory during the four (4) years after  
 22 the later of:

- 23 (1) the judgment of the circuit or superior court; or
- 24 (2) the date of the final disposition of all appeals to a higher court;
- 25 unless the annexation is petitioned for under section 5 or 5.1 of this
- 26 chapter.

27 **(c)** This subsection applies if a municipality repeals the annexation  
 28 ordinance:

- 29 (1) less than sixty-one (61) days after the publication of the
- 30 ordinance under section 7(a) of this chapter; and
- 31 (2) before the hearing commences on the remonstrance under
- 32 section ~~11(c)~~ **11(d)** of this chapter.

33 A municipality may not make further attempts to annex the territory or  
 34 any part of the territory during the twelve (12) months after the date the  
 35 municipality repeals the annexation ordinance. This subsection does  
 36 not prohibit an annexation of the territory or part of the territory that is  
 37 petitioned for under section 5 or 5.1 of this chapter.

38 **(d)** This subsection applies if a municipality repeals the annexation  
 39 ordinance:

- 40 (1) at least sixty-one (61) days but not more than one hundred
- 41 twenty (120) days after the publication of the ordinance under
- 42 section 7(a) of this chapter; and



(2) before the hearing commences on the remonstrance under section ~~H(e)~~ **11(d)** of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

(1) either:

(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section ~~H(e)~~ **11(d)** of this chapter; or

(B) after the hearing commences on the remonstrance as set forth in section ~~H(e)~~ **11(d)** of this chapter; and

(2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 15. IC 36-4-3-15.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.3. **(a) This section applies only to an annexation begun by an annexation ordinance introduced before May 15, 2015.**

~~(a)~~ **(b)** As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

~~(b)~~ **(c)** As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

~~(c)~~ **(d)** Under a settlement agreement between the annexing municipality and either:

(1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or

(2) the owners of more than seventy-five percent (75%) in



1           assessed valuation of the land owned by all landowners  
 2           participating in the remonstrance;  
 3           the parties may mutually agree to a prohibition against annexation of  
 4           all or part of the territory by the municipality for a period not to exceed  
 5           twenty (20) years. The settlement agreement may address issues and  
 6           bind the parties to matters relating to the provision by a municipality  
 7           of planned services of a noncapital nature and services of a capital  
 8           improvement nature (as described in section ~~13(d)~~ **13(e)** of this  
 9           chapter), in addition to a prohibition against annexation. The settlement  
 10          agreement is binding upon the successors, heirs, and assigns of the  
 11          parties to the agreement. However, the settlement agreement may be  
 12          amended or revised periodically on further agreement between the  
 13          annexing municipality and landowners who meet the qualifications of  
 14          ~~subsection (c)(1)~~ **subdivision (1)** or ~~(c)(2)~~ **(2)**.

15          SECTION 16. IC 36-4-3-16 IS AMENDED TO READ AS  
 16          FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Within one  
 17          (1) year after the expiration of:

- 18           (1) the one (1) year period for implementation of planned services
- 19           of a noncapital nature under section ~~13(d)(4)~~ **13(e)(4)** or
- 20           **13.1(d)(4)** of this chapter; or
- 21           (2) the three (3) year period for the implementation of planned
- 22           services of a capital improvement nature under section ~~13(d)(5)~~
- 23           **13(e)(5) or 13.1(d)(5)** of this chapter;

24          any person who pays taxes on property located within the annexed  
 25          territory may file a complaint alleging injury resulting from the failure  
 26          of the municipality to implement the plan. The complaint must name  
 27          the municipality as defendant and shall be filed with the circuit or  
 28          superior court of the county in which the annexed territory is located.

29          (b) The court shall hear the case within sixty (60) days without a  
 30          jury. In order to be granted relief, the plaintiff must establish one (1) of  
 31          the following:

- 32           (1) That the municipality has without justification failed to
- 33           implement the plan required by section 13 or **13.1** of this chapter
- 34           within the specific time limit for implementation after annexation.
- 35           (2) That the municipality has not provided police protection, fire
- 36           protection, sanitary sewers, and water for human consumption
- 37           within the specific time limit for implementation, unless one (1)
- 38           of these services is being provided by a separate taxing district or
- 39           by a privately owned public utility.
- 40           (3) That the annexed territory is not receiving governmental and
- 41           proprietary services substantially equivalent in standard and scope
- 42           to the services provided by the municipality to other areas of the



municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

SECTION 17. IC 36-9-24-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. A municipality that leases and operates sewage disposal facilities in an area within one (1) mile outside its corporate boundaries is considered to be furnishing sewage and sewer service in that area for purposes of IC 36-4-3-13 **or IC 36-4-3-13.1.**

SECTION 18. **An emergency is declared for this act.**

